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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,084	01/20/2004	David G. Jensen	02-0815	4603
7590	05/23/2005		EXAMINER	
SHIMOKAJI I FRITZ LLP Suite 480 1301 Dove Street Newport Beach, CA 92660			GUADALUPE, YARITZA	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/762,084	JENSEN ET AL.	
	Examiner Yaritza Guadalupe McCall	Art Unit 2859	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 21 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 32-47 and 54-56 is/are withdrawn from consideration.
- 5) Claim(s) 48-53 is/are allowed.
- 6) Claim(s) 1-7,9-12,14-19,22 and 28-31 is/are rejected.
- 7) Claim(s) 8,13,20,21 and 23-27 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/20/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 4, 9 – 12 and 14 - 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Triplett ( US 6,662,456 ).

With respect to claim 1, Triplett discloses a tool comprising an outer housing ( 6 ) having an interior hollow ( 11 ), a gage surface ( 10 ), and a base surface ( 9 ), said base surface having a contact area that contacts the surface of the structure ( 3 ); an inner plug ( 18 ) disposed within said interior hollow and that translates axially ( A ) within said interior hollow, wherein said inner plug has a sensing end ( defined by the interior space of the tool ) that contacts the surface, said inner plug has an indicator end ( 19 ) dimensioned to accept washers and nuts of the fastening system stacked on said gage surface; and said inner plug has an indicator ( 30 ) at said indicator end that indicates whether a fastening system component conforms to a fastening system installation specification. Furthermore, it has been held that a recitation with respect to

the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *In re Schreiber*, 44 USPQ2d 1429 ( Fed. Cir. 1997 ).

In regards to claim 2, Triplett teaches a tool capable of providing installation information, according to a qualitative requirement, about components of the fastening system being installed using said tool.

Regarding claim 3, Triplett also discloses a tool capable of providing installation information, according to a dimensional requirement of a fastening system installation specification, about components of the fastening system being installed using said tool.

With regards to claims 4 and 19, Triplett also shows a tool wherein said sensing end of said inner plug has an axial bore ( interior hollow space ), said axial bore having a diameter greater than the thread diameter of a bolt of the fastening system but less than the shank diameter of a bolt of the fastening system.

Regarding claim 9, Triplett teaches a tool wherein said indicator ( 30 ) of said inner plug includes an index marking, a position of said index marking correlating to a dimensional requirement.

With respect to claims 10 and 11, Triplett teaches a tool wherein said indicator of said inner plug is capable of providing installation information about a washer stacked on said gage surface or a nut stacked on said gage surface.

Regarding claim 12, Triplett further teaches a tool wherein said inner plug could reference an end of a bolt of the fastening system.

In regards to claim 14, Triplett teaches a tool comprising an outer housing ( 6 ) having an interior hollow ( 11 ), a gage surface ( 10 ), and a base surface ( 9 ), said base surface having a contact area that contacts the surface of the structure ( 3 ); an inner plug ( 18 ) disposed within said interior hollow and that translates axially within said interior hollow, wherein said inner plug has a sensing end ( defined by the interior space of the tool ) capable of contacting the fastening system, said inner plug having an indicator end ( 19 ) capable of accepting washers and nuts of the fastening system stacked on said gage surface ( 10 ), and said inner plug has an indicator ( 30 ) on said indicator end that indicates whether a fastening system component selection allows conformance to a qualitative requirement of a fastening system installation specification.

With regards to claim 15, the tool disclosed by Triplett would allow for said fastening system component selection being a bolt selection comprising a selected bolt; said sensing end of said inner selected bolt of the fastening system, and plug references the end of the said indicator

of said inner plug is readable in conjunction with said gage surface to indicate whether the bolt selection allows conformance to the fastening system installation specification.

Regarding claim 16, the tool shown by Triplett would also allow for said fastening system component selection being a washer selection comprising a selected washer, said sensing end of said inner plug references the shank section of a bolt of the fastening system', and said indicator of said inner plug is readable in conjunction with the selected washer stacked on said gage surface to indicate whether the washer selection allows conformance to the fastening system installation specification.

In regards to claim 17, the tool disclosed by Triplett is capable of allowing for said fastening system component selection to be a nut selection comprising a selected nut; said sensing end of said inner plug references the shank section of a bolt of the fastening system', and said indicator of said inner plug is readable in conjunction with the selected nut stacked on said gage surface to indicate whether the nut selection allows conformance to the fastening system installation specification.

With respect to claim 18, Triplett also teaches a tool wherein said outer housing has a base plate ( 7 ) with a contact area ( 9 ) that is a flat annular surface.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Triplett ( US 6,662,456 ) in view of Crosser ( US 6,792,831 ).

Triplett discloses a tool as stated in paragraph 2 above.

Triplett do not discloses the color bands as stated in claims 5 – 7.

With respect to claims 5 – 7 : Triplett discloses a tool having an indicator ( 30 ) for dimensional measurement of a distinct dimensional requirement. Crosser discloses a tool provided with an indicator and window ( 62 ) provided with color coded bands ( 64 ) correlating a dimensional requirement, i.e., size, with a color in order to allow for quick identification when dimensions are illegible. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the tool disclosed by Triplett by providing color coded bands to the indicator as taught by Crosser in order to allow for quick identification when dimensions are illegible.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Triplett ( US 6,662,456 ) in view of Welt ( US 5,501,020 ).

Triplett discloses a tool as stated in paragraph 2 above.

Triplett does not discloses the installation specification as stated in claim 22.

In regards to claim 22 : Welt discloses a fastener gauge ( 10 ) for dimensional measurement of a bolt, threads and drill bits, said gauge including an installation specification (See Figure 2) including dimensional requirements for components of a fastening system, i.e., bolt, in order to allow a quick and accurate selection of the appropriate fastener ( See Column 1, lines 55 – 58 ) as well as providing a visual representation of the fastener for increased accuracy. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an installation specification as taught by Welt to the tool disclosed by Triplett in order to allow a quick and accurate selection of the appropriate fastener ( See Column 1, lines 55 – 58 ) as well as providing a visual representation of the fastener for increased accuracy.

6. Claims 28 – 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. ( US 5,189,808 ) in view of Welt ( US 5,501,020 ).

In regards to claim 28, Evans et al. discloses a system comprising a tool including an outer housing ( 31 ) having an interior hollow ( 32 ), a gage surface ( 74 ), and a base surface ( 76 ), said base surface having a flat contact area that contacts the surface of the structure ( 114 ), an inner plug ( 92 ) disposed within said interior hollow and that translates axially within said interior hollow, wherein said inner plug has a sensing end with an axial bore that contacts the surface, and said sensing end referencing the section of a surface, said inner plug has an indicator end ( 56 ); a transducer ( 36 ) connected between said outer housing and said inner plug, and that measures a relative displacement between said inner plug and said outer housing, and an electronic instrumentation ( 52, 56 ) connected to said transducer and that provides and displays installation information according to said installation guide about whether the components being installed using the tool will conform to a specification.

Regarding claim 31 : Evans et al. teaches a system comprising a plunger ( 116 ) that references an end of a structure, wherein said inner plug includes a dome ( 88, 98 ), said dome having an axial opening that guides an axial translation of said plunger, and said transducer is connected to said plunger.

Evans et al. does not discloses an installation guide as stated in claims 28 - 30.

With respect to claim 28 : Welt discloses a fastener gauge ( 10 ) for dimensional measurement of a bolt, threads and drill bits, said gauge including an installation specification (See Figure 2) including dimensional requirements for components of a fastening system, i.e., bolt, in order to allow a quick and accurate selection of the appropriate fastener ( See Column 1, lines 55 – 58 ) as well as providing a visual representation of the fastener for increased accuracy. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an installation specification as taught by Welt to the tool disclosed by Triplett in order to allow a quick and accurate selection of the appropriate fastener ( See Column 1, lines 55 – 58 ) as well as providing a visual representation of the fastener for increased accuracy.

In regards to claims 29 – 30 : the claims neither define new features of structure nor new relations of printed matter to structure. The printed matter defined does not distinguish over the cited art, i.e., Welt, in terms of patentability. In the present case, with respect to the prescription for a washer stack corresponding to the relative movement of the transducer, the only functional relationship between the printed matter and the apparatus is that the reference guide corresponds to a displacement of the transducer. However, there is nothing new and unobvious in the type of installation guide as demonstrated by Welt. Mere claim of the type of installation guide provided on the apparatus are not the kind of “new and unobvious functional relationship ” necessary for giving the printed matter patentable weight. See *In re Gulack*, *supra*, and *In re Miller*, 164 USPQ 46 ( CCPA 1969 ).

*Allowable Subject Matter*

7. Claims 8, 13, 20 – 21 and 23 - 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 48 – 51 are allowed.

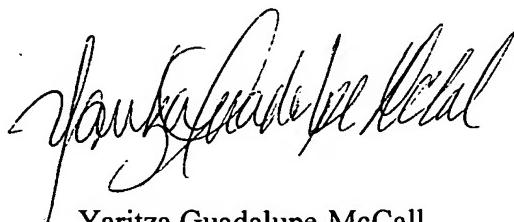
*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following reference are considered of relevance to the present application.
  - a. Krohn ( US 3,269,019 )
  - b. Myers et al. ( US 6,374,505 )
  - c. Sibole ( US 6,047,606 )
  - d. Bakke et al. ( US 5,875,558 )
  - e. Green ( US 5,199,175 )
  - f. Schroeder et al. ( US 6,851,202 )
  - g. Hommel ( US 5,697,166 )
  - h. Cranor ( US 5,077,909 )
  - i. Gleeson ( US 6,694,832 )

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe-McCall  
Patent Examiner  
Art Unit 2859

YGM  
May 20, 2005